

REMARKS

Applicants respectfully request further examination and reconsideration in view of the instant response. Claims 1-33 remain pending in the case. Claims 1-3, 6, 7, 10-12, 15, 16, 19-21, 24 and 25 are rejected. Claims 4, 5, 8, 9, 13, 14, 17, 18, 22, 23, 26 and 27 are objected to. Claims 28-33 are allowed. Claims 1, 10, 11, 13, 14 and 19 are amended herein. No new matter has been added.

ALLOWABLE SUBJECT MATTER

Applicants wish to thank the Examiner for the indication that Claims 28-33 are allowed and that Claims 4, 5, 8, 9, 22, 23, 26 and 27 would be allowable if rewritten in independent form including the limitations of their base Claims and any intervening Claims. Moreover, Applicants wish to thank the Examiner for the indication that Claims 13, 14, 17 and 18 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112, second paragraph, and to include all the limitations of their base Claims and any intervening Claims.

35 U.S.C. §112, second paragraph

Claims 10-18 are rejected under 35 U.S.C. § 112, second paragraph, as these claims are indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, Examiner asserts that the wording "processor for executing a method ... said method comprising the steps of ..." creates confusion because it is not clear whether Applicants are directing the claimed invention towards an apparatus or a process.

Applicants have amended Claim 10 herein to recite the limitation of “said processor for simulating transmission control protocol streams in a network, wherein said processor is for.” Claims 11, 13 and 14 have been amended herein to recited similar limitations. Accordingly, Applicants respectfully assert that the Claims 10, 11, 13 and 14 are clearly directed towards an apparatus. Moreover, Applicants respectfully assert that the Claims 12 and 15-18 that are dependent on Claim 10 are also clearly directed towards an apparatus. Therefore, Applicants respectfully assert that amended Claims 10-18 overcome the rejection under 35 U.S.C. § 112, second paragraph.

35 U.S.C. §102(e)

Claims 1-3, 6, 7, 10-12, 15, 16, 19-21, 24 and 25 are rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent Number 6,564,267 by Lindsay, hereinafter referred to as the “Lindsay” reference. Applicants have reviewed the cited reference and respectfully submit that the present invention as recited in Claims 1-3, 6, 7, 10-12, 15, 16, 19-21, 24 and 25 is not anticipated by Lindsay.

Applicants respectfully direct the Examiner to independent Claim 1 that recites that an embodiment of the present invention is directed to (emphasis added):

In a network, a method for simulating transmission control protocol streams, said method comprising the steps of:

a) initiating at least one transmission control protocol session, said transmission protocol session requiring acknowledgement and operable to transmit data packets, said transmission control protocol

session comprising a current window size and a maximum window size, said current window size defining an amount of unacknowledged data actually being sent, said maximum window size defining an amount of unacknowledged data that can be sent; and

b) initiating an unacknowledged traffic stream for the transmission control protocol session, wherein said unacknowledged traffic stream does not require acknowledgement and is controlled by said transmission control protocol session such that said unacknowledged traffic stream simulates an acknowledged traffic stream.

Independent Claims 10 and 19 recite similar limitations. Claims 2, 3, 6 and 7 that depend from independent Claim 1, Claims 11, 12, 15 and 16 that depend from independent Claim 10, and Claims 20, 21, 24 and 25 that depend from independent Claim 19 provide further recitations of the features of the present invention.

Applicants respectfully submit that Lindsay and the claimed embodiments are very different. Applicants understand Lindsay to teach a network adapter with large frame transfer emulation. Lindsay teaches that data received is acknowledged to the sender. In particular, Lindsay teaches all data waiting to be acknowledged ultimately requires acknowledgement.

Applicants respectfully assert that Lindsay does not teach, describe or suggest “wherein said unacknowledged traffic stream does not require acknowledgement” as claimed (emphasis added). With reference to Figure 5 of Lindsay, Applicants understand Lindsay to teach that Host TCP/IP 24 acknowledges a packet upon its receipt (col. 6, lines 56-65). Similarly, if remote endpoint 42 were to receive a packet, an acknowledgement would be sent upon receipt (col. 6, line 66 through col. 7, line 6).

In particular, Applicants understand that Lindsay teaches that all packets transmitted ultimately require acknowledgement. In other words, a packet might not be “unacknowledged” prior to transmission of the acknowledgement (e.g., while it waits in queue 176 of Figure 13). However, the packets ultimately require acknowledgement.

In contrast, embodiments of the claimed invention as recited in Claim 1 recite the limitation of “wherein said unacknowledged traffic stream does not require acknowledgement” (emphasis added). Accordingly, the claimed embodiment provides for initiating a traffic stream that does not require acknowledgement. As described in the present specification, an acknowledgement mechanism is used in TCP transmission of packets for ensuring that data is sequentially received (page 12, lines 9-14). By not requiring an acknowledgement, the unacknowledged traffic stream can operate at a much higher rate than the accompanying acknowledged stream (col. 14, lines 10-13).

In view of the claim limitations not being shown or suggested in Lindsay, in combination with the above arguments, Applicants respectfully submit that independent Claims 1, 10 and 19 overcome the cited reference and therefore overcome the rejection under 35 U.S.C. § 102(e). Therefore, Applicants respectfully submit that Lindsay also does not teach or suggest the additional claimed features of the present invention as recited in Claims 2, 3, 6 and 7 that depend from independent Claim 1, Claims 11, 12, 15 and 16 that depend from independent Claim 10, and

Claims 20, 21, 24 and 25 that depend from independent Claim 19. Applicants respectfully submit that Claims 2, 3, 6, 7, 11, 12, 15, 16, 20, 21, 24 and 25 that depend from independent also overcome the rejection under 35 U.S.C. § 102(e) as these claims are dependent on allowable base claims.

35 U.S.C. §103(a)

Claims 6, 7, 15, 16, 24 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lindsay. Claims 6 and 7 depend from independent Claim 1, Claims 15 and 16 depend from independent Claim 10, and Claims 24 and 25 depend from independent Claim 19. Applicants have reviewed the cited reference and respectfully submit that the present invention as recited in Claims 6, 7, 15, 16, 24 and 25 is not rendered obvious by Lindsay.

As described above, Applicants respectfully submit that Lindsay and the claimed embodiments are very different. In particular, Lindsay teaches all data waiting to be acknowledged ultimately requires acknowledgement. In other words, a packet might not be “unacknowledged” prior to transmission of the acknowledgement; however, the packet ultimately requires acknowledgement. In contrast, embodiments of the claimed invention as recited in Claim 1 recite the limitation of “wherein said unacknowledged traffic stream does not require acknowledgement” (emphasis added). Accordingly, the claimed embodiment provides for initiating a traffic stream that does not require acknowledgement.

Applicants respectfully assert that Lindsay does not teach, describe or suggest “wherein said unacknowledged traffic stream does not require acknowledgement” as recited in independent Claims 1, 10 and 19. In contrast, Lindsay teaches that packets ultimately require acknowledgement. By explicitly teaching that packets ultimately require acknowledgement, Lindsay teaches away from the claimed configuration.

In view of the claim limitations not being shown or suggested in Lindsay, in combination with the above arguments, Applicants respectfully submit that independent Claims 1, 10 and 19 overcome the cited reference and therefore overcome the rejection under 35 U.S.C. § 103(a). Therefore, Applicants respectfully submit that Lindsay also does not teach or suggest the additional claimed features of the present invention as recited in Claims 6 and 7 that depend from independent Claim 1, Claims 15 and 16 that depend from independent Claim 10, and Claims 24 and 25 that depend from independent Claim 19. Applicants respectfully submit that Claims 6, 7, 15, 16, 24 and 25 that depend from independent also overcome the rejection under 35 U.S.C. § 103(a) as these claims are dependent on allowable base claims.

CONCLUSION

Based on the arguments presented above, Applicants respectfully assert that Claims 1-3, 6, 7, 10-12, 15, 16, 19-21, 24 and 25 overcome the rejections of record and, therefore, Applicants respectfully solicit allowance of these Claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

WAGNER, MURABITO & HAO L.L.P.

Dated: 24 Oct, 2005

A handwritten signature in dark ink, appearing to read 'Matthew J. Blecher', is written over a horizontal line.

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